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FOR CONSIDERATION AT THE JUNE 18, 2015 MEETING
OF THE HIGHLANDS COUNCIL

FINAL ~~DRAFT~~ CONSISTENCY REVIEW **AND RECOMMENDATIONS REPORT**

PETITION FOR PLAN CONFORMANCE:
TOWNSHIP OF CLINTON, HUNTERDON COUNTY

Prepared by the State of New Jersey Highlands Water Protection and
Planning Council in Support of the Highlands Regional Master Plan

~~MAY 18~~ JUNE 4,
2015

FOR CONSIDERATION AT THE JUNE 18, 2015 MEETING OF THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
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INTRODUCTION

This Final ~~Draft~~ Consistency Review and Recommendations Report (“Report”) has been prepared by the Staff of the Highlands Water Protection and Planning Council (“Highlands Council”). It provides review and recommendations for consideration by the Highlands Council as to the consistency of the Petition for Plan Conformance of the Township of Clinton, with the Highlands Regional Master Plan (RMP). The Report provides review and discussion of each component of the Petition for Plan Conformance, in the order in which they are set forth under submission guidelines provided to municipalities by the Highlands Council. It begins with a brief summary of Staff findings, displayed in a table format, to provide an at-a-glance overview of the results of Staff review.

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REPORT SUMMARY

Municipality: Township of Clinton

Date of Petition Submission: December 8, 2009

Date Deemed Complete: February 28, 2010

Conformance Area: Planning Area & Preservation Area

Staff Recommendation: Approve Petition with Conditions

Administrative Submittals	Meets Requirements	Modifications Needed	Does Not Address Requirements	Not Applicable
1. Resolution or Ordinance	X			
2. Record of Public Involvement	X			
3. List of Current Planning and Regulatory Documents	X	Follow-Up Required		
4. Other				X

Petition Components	Consistent	Modifications Needed	Substantially Inconsistent	Not Applicable
1. Modules 1-2 Build-Out Report*	X			
2. Module 3 Housing Element/Plan	X			
3. Module 4 ERI	X			
4. Module 5 Highlands Element	X	Follow-Up Required		
5. Module 6 Land Use Ordinance	X	Follow-Up Required		
6. Module 7 Petition				
a. Self-Assessment Report	X			
b. Implementation Plan/Schedule	X	Follow-Up Required		
7. Other				X

*Completed by the Highlands Council in collaboration with the municipality prior to substantive review of the Petition.

Optional Submission Items	Submission Date	Status/Recommendation
1. RMP Updates	12/8/09	Processed - See Section C
2. Map Adjustments	12/8/09	Approve with Conditions- -See Section C
3. Center Designation Requests	N/A	
4. Highlands Redevelopment Area Designation Requests	N/A	
5. Other	N/A	

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A. REVIEW OF ADMINISTRATIVE SUBMITTALS

- 1. Resolution or Ordinance.** Consistent. Two Resolutions petitioning the Highlands Council for Plan Conformance were adopted by the municipal Governing Body at its noticed public meeting of December 2, 2009. The first Resolution petitions with respect to the Township Preservation Area (#144-09); the second with respect to the Planning Area (#145-09). The documents submitted are appropriately signed and certified by the Municipal Clerk to verify authenticity. The language of the Resolutions relies upon the models provided by the Highlands Council. The Resolutions clearly petition the Highlands Council for Plan Conformance; conformance being proposed with respect to the entirety of the municipality, which includes 643 acres in the Preservation Area (3% of the municipality) and 21,064 acres in the Planning Area (97%).
- 2. Record of Public Involvement.** The Petition includes appropriate documentation of the public process engaged in by the municipality with regard to the development of Petition materials and adoption of the Resolution petitioning the Highlands Council for Plan Conformance. The submission includes the following:

 - a. Copy of agenda and adopted meeting minutes for a joint meeting of the Township Council and Planning Board held on October 28, 2009 to discuss Plan Conformance and Petition components.
 - b. Copy of agenda and adopted meeting minutes for joint meeting of the Township Council and Planning Board held on December 2, 2009 to discuss Plan Conformance and Petition components and to adopt the Resolution petition the Highlands Council for Plan Conformance.
- 3. List of Current Planning Documents.** The list of current municipal planning and regulatory documents is comprehensive and includes required dates of adoption, as applicable. Pursuant to Highlands Council Module 7 Municipal Plan Conformance Petition instructions, all of these documents should be available in the offices of the Highlands Council in Adobe pdf format. Staff review indicates that only several of the required documents are available as required. In order to address this Plan Conformance requirement, the documents listed below must be provided in Adobe pdf format.

 - a. Land Use Plan Element (adopted March 2006)
 - b. Community Design Sub-Element (August 2001)
 - c. Open Space and Recreation Plan Element (adopted December 2003)
 - d. Circulation Plan Element (adopted 1999, amended 2000)
 - e. Bicycle Plan Sub-Element (adopted 2001)
 - f. Conservation Plan Element (adopted October 1992)
 - g. Historic Preservation Plan Element(adopted October 1992)
 - h. Community Facilities Plan Element (adopted October 1992)
 - i. Recycling Plan Element (adopted October 1992)
 - j. 2005 Reexamination Report (adopted November 2005)

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k. Clinton Township Zoning Map (last revised May 2006)

Please note that the Township Code is available online at <http://www.ecode360.com/?custId=CL1920> and therefore is not required in pdf format.

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B. REVIEW OF PLAN CONFORMANCE PETITION COMPONENTS

- 1. Highlands Municipal Build-Out Report (Modules 1-2).** Consistent. The Highlands Municipal Build-Out Report was completed by the Highlands Council in collaboration with the municipality prior to a finding of Administrative Completeness of the Petition. The date of the Highlands Municipal Build-Out Report is October 2009.
- 2. Housing Element & Fair Share Plan (Module 3).** Consistent as submitted.

The Highlands Council recognizes that Supreme Court decision of March 10, 2015, “In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing” has placed the responsibility of confirming a municipality’s fair share obligation on the courts. However, the impacts of Plan Conformance on the municipality, as well as the standards of the Fair Housing Act related to Regional Planning Entities (N.J.S.A. 52:27D-329.9 c.(1 and 2)) and the requirements of the Highlands Act (C.13:20-23 - Regional master plan considered in allocation of prospective fair housing share) have not changed. Accordingly, the analysis below is provided with the intent being to ensure that the municipality remains in compliance with all applicable statutes, rules, regulations, and requirements regarding affordable housing, at any given time, and maintains consistency with the RMP. At this time the Highlands Council’s review is limited to the consistency of the affordable housing sites and mechanisms proposed in the Township’s most recent Draft Housing Element and Fair Share Plan.

- a. **Housing Element & Fair Share Plan.** Review of the Draft April 22, 2015 Housing Element and Fair Share Plan, with revisions pursuant to the March 16, 2015 Township Planning Board review indicates that the municipality would likely complete the planning process necessary to satisfactorily address the Fair Share Obligation while at the same time ensuring consistency with the requirements of the RMP as to site development. Potential issues or inconsistencies with the RMP were identified and brought to the municipality’s attention. A summary of findings follows. These findings constitute a preliminary analysis of the Draft Housing Element and Fair Share Plan by the Highlands Council. Formal review of fully developed affordable housing plans will be conducted by the Department of Community Affairs or the Superior Court.

- i. **Summary of Municipal Obligation.** The following is the fair share obligation as calculated by the municipality. This information may be subject to change as part of the judicial review of the municipalities Fair Share Plan.

- **Rehabilitation Share:** 27
- **Prior Round Obligation:** 335
- **Prospective Need Obligation (2014-2024):** 131

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ii. **Summary of Proposed Fair Share Plan.** The Fair Share Plan proposes to address the municipal obligation by use of the mechanisms and/or development projects listed below. Where Affordable Housing Sites were included that have not yet been constructed, each was reviewed for consistency with the RMP using the on-line Highlands Council RMP Consistency Review Report tool.

- **Rehabilitation Program:** The Township will provide the required units through a County-sponsored or Township sponsored rehabilitation program.

- **Projects Completed:**

- i. Prior Cycle Credits: 18 units

- 1. Existing Group Home: Block 4.023 Lot 40. A five bedroom group home for individuals with developmental disabilities.

- 2. Credits Without Controls: The Township is eligible for thirteen units for credits without controls, which were previously certified by COAH.

- ii. RCA with New Brunswick: 108 units completed

- iii. The Mews Senior Rentals: 35 units completed (plus 35 rental bonus credits)

- **Projects Proposed/Under Consideration:**

- i. Former Municipal Building Site (Block 53, Lot 3): 3 unit affordable project (and 3 bonus rental credits). Planning Area – Existing Community Zone. Site is already developed, and contains a historic structure. The project intends to use the existing structure. Project appears consistent with RMP.

- ii. Marookian Site. Block 82, Lots 4 and 4.03. 139.3 acres of which 19 acres are proposed to be developed with 119 affordable units (119 bonus credits). Planning Area - Conservation Zone and Conservation Environmentally Constrained Subzone. The Township would need to request a Map Adjustment to place the site in the Existing Community Zone, which would allow the Township to extend water and sewer infrastructure to the site, which

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must be addressed through an amendment to the Areawide WQMP.

- iii. Village Green at Annandale: Planning Area, Existing Community Zone. Block 53, Lot 3. A previously disturbed site that has approvals for a development including 4 units of affordable housing. Project appears consistent with RMP.
- iv. Group Homes – Several approved housing projects require a total of 20 group home units to be provided as a condition of Planning Board approval
- v. Alternate Site: Windy Acres. Block 7, Lots 31.01, 31.02 and 18.03. This location would accommodate 66 affordable units (66 bonus credits) shifted from the Marookian site if sewerage can be obtained from the Readington Lebanon Sewer Authority. Planning Area – Conservation and Conservation Environmentally Constrained Subzone. The Township would need to request a Map Adjustment to place the site in the Existing Community Zone, which would allow the Township to extend water and sewer infrastructure to the site, which must be addressed through an amendment to the Areawide WQMP. The availability of sewer capacity from Readington-Lebanon Sewer Authority must be determined.

iii. Recommendations to Achieve Consistency.

If the Township proceeds with either the Marookian or the Windy Acres sites, a Map Adjustment request would need to be submitted for review by the Highlands Council. Pending submission and review of any such request, these site have issues with RMP consistency.

iv. Recommendations to Achieve Consistency.

- Goals and objectives consistent with the goals and objectives found in the Model Housing Element appended to the Module 3 instructions have been inserted as a revision to the Township's proposed Master Plan Highlands Element (see Housing Plan section).

3. **Environmental Resource Inventory (Module 4).** The proposed Township of Clinton Highlands Environmental Resource Inventory (ERI) is based on the Highlands Model ERI provided to municipalities by the Highlands Council. The document has undergone previous revisions under a collaborative process between the municipality and the Highlands Council to address and incorporate the input and concerns of all parties. The Township of Clinton Highlands ERI as now proposed (including modifications by the Highlands Council), contains

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all required Highlands ERI language and all applicable maps/exhibits, as necessary, to fully describe the Highlands Resources, Resource Areas, and Special Protection Areas located within the municipality. As such, the Highlands ERI is consistent with the RMP and the immediate mandatory requirements of Plan Conformance.

- a. **Deleted Sections/Exhibits.** Special Environmental Zone Not Applicable – Narrative and Exhibit Deleted.
 - b. **Figures.** The Highlands Council has developed a new set of figures based on updated information, which replaces the figures previously developed, with the exception of any figures developed by the municipality. The new figures are provided as a separate file from the Highlands ERI text, and any figures previously provided with the Highlands ERI have been deleted to avoid confusion. Please note that the figures should not be incorporated with the MS Word® version of the text, but rather should be kept separate until after municipal adoption, when the text and figures should be combined into a single pdf-format file.
 - c. **Areas of Inconsistency** (if Applicable). None.
 - d. **Recommendations to Achieve Consistency** (if Applicable). None.
4. **Master Plan Highlands Element (Module 5).** The proposed Township of Clinton Master Plan Highlands Element is based on the model Highlands Element provided to municipalities by the Highlands Council. The document has undergone previous revisions under a collaborative process between the municipality and the Highlands Council to address and incorporate the input and concerns of all parties. The Township of Clinton Highlands Element as now proposed (including modifications by the Highlands Council), contains all required Highlands Element language and all applicable maps/exhibits, as necessary, to fully address the immediate mandatory requirements of Plan Conformance.

The specific components of the model Highlands Element are listed below. Where each is consistent with the Highlands Council model or otherwise satisfactorily addresses all RMP requirements for Plan Conformance, the heading or sub-heading indicates “Consistent.” Where any section of the model Highlands Element has been appropriately deleted due to non-applicability, the heading or sub-heading indicates “Not Applicable – Deleted.” Where modifications are required to achieve consistency or otherwise address Plan Conformance requirements, the heading or sub-heading indicates, “Modifications Required.” In that case, explanatory discussion and/or recommendations are provided. Where appropriate, discussion may summarize the issue and refer to detailed edits recommended by Staff within the document, itself.

- a. **Policies, Goals & Objectives.** Consistent
 - i. Preservation Area Goals. Consistent
 - ii. Planning Area Goals. Consistent

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- iii. General Purposes of Zoning. Consistent
- iv. Relationship Between Highlands Act & MLUL. Consistent
- b. **Land Use Plan Element.** Consistent
 - i. Highlands Zones and Sub-Zones. Consistent
 - ii. Land Uses. Consistent
 - iii. Density and Intensity of Development. Consistent, please note the significant extent of modifications provided by the Highlands Council.
 - iv. Cluster Development. Consistent
 - v. Land Use Inventory. Consistent
 - vi. Redevelopment Planning. Consistent
- c. **Housing Plan Element.** Consistent. Please note insertions provided by the Highlands Council to incorporate RMP-consistent housing goals and objectives. Review and recommendations concerning the Housing Plan Element appear at item #2 above, Housing Element & Fair Share Plan.
- d. **Conservation Plan Element.** Consistent
 - i. Forest Resources. Consistent
 - ii. Highlands Open Waters and Riparian Areas. Consistent
 - iii. Steep Slopes. Consistent
 - iv. Critical Habitat. Consistent
 - v. Carbonate Rock. Consistent
 - vi. Lake Management. Consistent
 - vii. Water Resources Availability. Consistent
 - viii. Prime Ground Water Recharge Areas. Consistent
 - ix. Water Quality. Consistent
 - x. Wellhead Protection. Consistent
 - xi. Low Impact Development. Consistent
- e. **Utility Services Plan Element.** Consistent
 - i. Preservation Area. Consistent
 - ii. Planning Area. Consistent
 - iii. Planning & Preservation Areas. Consistent

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- f. **Circulation Plan Element.** Consistent. However, please review the comments noted in the document and provide edits as appropriate to the Township.
 - g. **Land Preservation/Stewardship Plan Element.** Consistent
 - h. **Agriculture Retention/Farmland Preservation Plan Element.** Consistent
 - i. **Community Facilities Plan Element.** Consistent
 - j. **Sustainable Economic Development Plan Element.** Consistent
 - k. **Historic Preservation Plan Element.** Consistent
 - i. Historic, Cultural, and Archaeological Resources. Consistent. Please note that alternative language has been inserted into the document for the municipality to review and consider. It provides for the case where a municipality chooses not to regulate historic resources, which the Highlands Council has determined is an optional component of Plan Conformance, not mandatory. The Highlands Council has also provided the full listing of resources from the Highlands Inventory.
 - ii. Scenic Resources. Consistent. Please note Highlands Council insertion of sites listed in the Highlands Scenic Resource Inventory.
 - l. **Development Transfer Plan Element.** Inclusion of this Section is optional and the municipality has elected not to incorporate it at this time.
 - m. **Relationship of Master Plan to Other Plans.** Consistent
 - n. **Appendices.** Please note Highlands Council replacement of SIC Codes with current North American Industry Classification System (NAICS) codes in Appendix C, Major Potential Pollutant Sources.
 - o. **Exhibits.** The list of Exhibits includes all that apply to the municipality. The Highlands Council has developed a new set of exhibits based on updated information, which replaces the exhibits previously developed, with the exception of any exhibits developed by the municipality. The new exhibits are provided as a separate file from the Highlands Element text, and any exhibits previously provided with the Highlands Element have been deleted to avoid confusion. Please note that the exhibits should not be incorporated with the MS Word® version of the text, but rather should be kept separate until after municipal adoption, when the text and exhibits should be combined into a single pdf-format file.
5. **Highlands Area Land Use Ordinance (Module 6).** The proposed Township of Clinton Highlands Area Land Use Ordinance is based on the model Highlands Area Land Use Ordinance provided to municipalities by the Highlands Council. The document has undergone

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previous revisions under a collaborative process between the municipality and the Highlands Council, wherein the participants have determined appropriate ways to address and incorporate the input and concerns of all parties. Since the time of issuance of the Model, the Highlands Council, with input from municipal professionals, has made certain revisions to the document to refine and simplify it for purposes of municipal implementation. The Township of Clinton Highlands Area Land Use Ordinance as proposed (including modifications by the Highlands Council), contains all required Highlands Area Land Use Ordinance language and all applicable maps/exhibits, as necessary, to fully address the immediate mandatory requirements of Plan Conformance.

The specific components of the model Highlands Land Use Ordinance are listed below. Where each is consistent with the Highlands Council model or otherwise satisfactorily addresses all RMP requirements for Plan Conformance, the heading or sub-heading indicates “Consistent.” Where any section of the model Highlands Land Use Ordinance has been appropriately deleted due to non-applicability, the heading or sub-heading indicates “Not Applicable – Deleted.” Where modifications are required to achieve consistency or otherwise address Plan Conformance requirements, the heading or sub-heading indicates, “Modifications Required.” In that case, explanatory discussion and/or recommendations are provided. Where appropriate, discussion may summarize the issue and refer to detailed edits recommended by Staff within the document, itself.

- a. **Article 1. Title, Purpose, Scope.** Consistent, however the municipality should review the minor modifications made by the Highlands Council. Please see edits in document text.
- b. **Article 2. Applicability.** Modifications for consistency have been provided by the Highlands Council. In addition, the municipality should review the edits not relating to municipal insertions, which have been made to all model Ordinances, by the Highlands Council. Please see revised document text.
 - i. Section 2.1.1 (Exclusions). A number of the proposed municipal deletions and additions have been removed from the document.
 - ii. Section 2.4 (Exemptions). A number of the proposed municipal edits have been removed.
- c. **Article 3. Definitions.** Consistent, however the municipality should review the minor modifications made by the Highlands Council. Please see edits in document text.
- d. **Article 4. Establishment of Highlands Area Districts.** Consistent, however the municipality should review the modifications made by the Highlands Council, inclusive of new map titles at Section 4.4. Please see edits in document text.

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- e. **Article 5. Highlands Area Zone District Regulations.** Consistent, however please review various optional and “if applicable” language in the document that must be addressed. The municipality should also review the significant modifications made to the section by the Highlands Council. Please see edits in document text.

- f. **Article 6. Highlands Area Resource Regulations.** Consistent
 - i. Forest Resources. Consistent
 - ii. Highlands Open Waters & Riparian Resources. Consistent
 - iii. Steep Slopes. Consistent
 - iv. Critical Habitat. Consistent
 - v. Carbonate Rock. Consistent
 - vi. Lake Management Area. Consistent
 - vii. Water Conservation & Deficit Mitigation. Consistent
 - viii. Prime Ground Water Recharge Areas. Consistent
 - ix. Wellhead Protection. Consistent
 - x. Agricultural Resources. Consistent
 - xi. Historic, Cultural & Archaeological Resources. Consistent. , however the municipality must review the modifications made by the Highlands Council. Please see edits in document text. These regulatory provisions have been made optional, and thus the municipality will need to make a determination regarding the preferred approach to this issue.
 - xii. Scenic Resources. Consistent

- g. **Article 7. Highlands Area General Regulations.** Consistent
 - i. Affordable Housing. Consistent
 - ii. Low Impact Development. Consistent
 - iii. Conservation Restrictions. Consistent, however the municipality should review the modifications made by the Highlands Council. Please see edits in document text.
 - iv. Stormwater Management. Consistent
 - v. Special Environmental Zone. Not Applicable – Deleted
 - vi. Septic System Design and Maintenance. Consistent
 - vii. Public Water Systems. Consistent
 - viii. Wastewater Collection and Treatment Systems. Consistent

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- h. **Article 8. Planned Development Regulations.** Consistent
- i. **Article 9. Application Review Procedures & Requirements.** Consistent, however the municipality should review the modifications made by the Highlands Council. Please see edits in document text.
- j. **Article 10. Appeals, Waivers, Exceptions.** Consistent, however the municipality should review the modifications made by the Highlands Council. Please see edits in document text.
- k. **Article 11. Enforcement, Violations, Penalties.** Consistent
- l. **Appendices.** Consistent. Please note Highlands Council insertion of North American Industry Classification System (NAICS) codes to replace SIC Codes in Appendix D, Major Potential Pollutant Sources.
- m. **Exhibits.** The Exhibits, including the List of Exhibits and all in-text document references to Exhibits have been updated by the Highlands Council to include Highlands Council parcel-based maps, which indicate the locations and boundaries of each Highlands Area, Zone, Resource, Resource Area, and Special Protection Area. These Exhibits were not available when the Model Land Use Ordinance was initially provided by the Highlands Council for use in preparing Petitions, but are crucial to the regulatory function of the Highlands Area Land Use Ordinance. Please note that the revised maps have been provided in Adobe® pdf format, and in this case, should not be converted for insertion directly in the MSWord® version of the Ordinance. After adoption, they should accompany the Ordinance at all times, however, as an integral component of it – whether made available to the public in paper or electronic format. As provided currently, the maps are at a scale suited to printing on large plotters, for purposes of municipal reproduction and display (ensuring high-resolution detail).

6. Petition Submission Documents (Module 7).

- a. **Municipal Self-Assessment Report.** The Municipal Self-Assessment Report consists of two components as listed herein. The Report accurately describes the status of municipal Plan Conformance to date, indicating both municipal accomplishments and the items that remain to be completed to fully achieve Plan Conformance.
 - i. **Narrative Portion.** The Narrative Portion has been completed accurately.
 - ii. **Spreadsheet Portion.** The Spreadsheet Portion has been completed accurately.
- b. **Highlands Implementation Plan & Schedule.** The Highlands Implementation Plan and Schedule provides a template for future Plan Conformance activities. It is

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intended to indicate all outstanding items, both required and discretionary, along with estimated costs and timeframes for completion, for the municipality to achieve or exceed Full Plan Conformance with the Regional Master Plan.

As proposed by the municipality, the Highlands Implementation Plan and Schedule included all mandatory components required to achieve Plan Conformance and incorporated timeframe estimates associated with each. The Highlands Implementation Plan and Schedule has been modified since first issued by the Highlands Council however. The revised document includes cost estimates for each activity and prioritizes implementation tasks with a particular focus on the first few months after Highlands Council approval of Petitions, including the 2015 State fiscal year.

In addition, the proposed Highlands Implementation Plan and Schedule includes non-mandatory Plan Conformance activities, the estimated costs and timeframes for completion of which, the municipality must consider. These activities have been incorporated into the revised Highlands Implementation Plan and Schedule for discussion purposes.

Please see the revised document and provide input if/as needed, particularly regarding prioritization of any activities of municipal interest. Recommended edits tailoring it to the municipality (based on the Petition submittals) have been included.

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C. REVIEW OF OPTIONAL SUBMISSION COMPONENTS

1. **RMP Updates.** The Petition for Plan Conformance was accompanied by 12 requests for RMP Updates. These requests are listed and described in the attachment at Appendix A, with a summary of the final results of review and processing provided below. The Township submitted 12 requests for modifications to the RMP LUCZ designations.

- a. **RMP Update Requests.** Processed

The Highlands Council found the petition and supporting materials provided information sufficient for processing three (3) of these requests as RMP Updates. Specifically, the Lake Community Sub-Zone 1000 ft. buffer associated with Spruce Run Reservoir and Round Valley Reservoir were updated. While the 1,000 foot buffer is accurate, upon further inspection by the Highlands Council, an RMP Update will be processed to other layers and will investigate existing land conditions around reservoirs regionally. In addition, Block 13.01, Lot 1 was changed from Existing Community Zone to Conservation Zone. The initial classification as Existing Community Zone was due solely to the adjacent Interstate highway.

As discussed with municipal professionals during the Highlands Informational Sessions, the parcel-based maps illustrating Highlands Zones and Sub-Zones have been refined for use by municipalities in regulating Highlands Areas. These maps are not identical to those developed for application by the Highlands Council to the whole of the Highlands Region, in that they apply the Highlands Zone boundary limits at a much finer level of detail. To the extent feasible, for example, small incursions of multiple zones have been removed from individual parcels to simplify the application of regulatory requirements. This process addressed some of the Township's RMP Update requests.

For other requests, the information provided on current and existing land conditions is consistent with that used by the Highlands Council. These requests do not constitute RMP Updates. The municipality may propose to pursue other policies of the RMP to effect a policy change in LUCM Zone, including for example, the Map Adjustment Program or, for qualifying areas, a Highlands Center designation. The Highlands Council Staff suggests that a Highlands Center designation would be especially appropriate for the Township of Clinton.

2. **Map Adjustments.**

- a. The Petition for Plan Conformance was not accompanied by any request for a Map Adjustment. It should be noted that 2 of the affordable housing sites currently under consideration will require future Map Adjustment requests.
 - b. The Petition for Plan Conformance was accompanied by requests for certain RMP Updates, as noted above. If the Township wishes to pursue any of the 10 deemed not to be RMP Updates as Map Adjustments or a Highlands Center designation,

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please provide information on the nature of the proposals using the forms available through the NJ Highlands Council Website:

<http://www.highlands.state.nj.us/njhighlands/planconformance> or request a meeting to further discuss the Township's options.

3. **Highlands Center Designation Requests.** The Petition for Plan Conformance was not accompanied by any requests for Highlands Center Designation. However, the Petition for Plan Conformance has included a request for funding of a Center Designation Study focused on the Annandale area of the Township.

Highlands Council staff recommends inclusion of funding for a Center Designation Study in the Highlands Council approval of Clinton Township's Petition for Plan Conformance. The proposed study area (Annandale) contains development densities and access to transit consistent with smart growth and Center Designation principles. Furthermore, the Township, through its Center Designation Study will explore the potential to accommodate at least a portion of its affordable housing obligation within the Center provided such a Center is deemed compatible with the goals and policies of the RMP and the desires of the Township. Such a determination will be made during the Center Designation Study.

4. **Highlands Redevelopment Area Designation Requests.** The Petition for Plan Conformance was not accompanied by any requests for Highlands Redevelopment Area Designation.
5. **Other.** The Petition for Plan Conformance was not accompanied by any other requests for approvals, not listed above.

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D. PRELIMINARY RECOMMENDATIONS

On the basis of the comprehensive review completed and discussed in detail as described in the preceding Sections, which examined both sufficiency of administrative submittals and consistency of all substantive materials with the Highlands Regional Master Plan, Highlands Council Staff recommends that the Petition for Plan Conformance of the Township of Clinton, as currently proposed by the municipality, be approved with conditions as outlined below.

1. Approval with Conditions. The Petition for Plan Conformance requires certain modifications, as noted within Sections A through C of this Report. Provided these issues are addressed in accordance with the detailed recommendations as indicated within this Report and the herein-referenced Highlands Council Staff-provided MSWord “Track-Changes” versions of the various Petition documents, Highlands Council Staff recommend that this Petition for Plan Conformance be approved by the Highlands Council. Any approval should in addition, be conditioned upon satisfaction of the below-listed requirements.

a. Adoption of Approved Planning Area Petition Ordinance. The municipality shall prepare and submit to the Highlands Council a draft municipal ordinance petitioning the Highlands Council for Plan Conformance with respect to the municipality’s Planning Area lands (based upon or consistent with the model provided by the Highlands Council). Upon receipt of Highlands Council approval, the Ordinance shall be prepared for purposes of public review and adoption by the municipal Governing Body. The Governing Body shall provide for and complete the adoption process, at the conclusion of which, a certified copy of the adopted Planning Area Petition Ordinance shall be provided to the Highlands Council with notice of its effective date. The process of Ordinance adoption shall be guided by the timeframes set forth in the Highlands Council-approved Highlands Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Ordinance, the proposed changes shall be submitted for review by the Highlands Council prior to adoption by the Governing Body. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption at the municipal level.

b. Adoption of Approved Checklist Ordinance. The municipality shall prepare and submit to the Highlands Council a draft “Checklist Ordinance” (model available) requiring that Development Applications be deemed incomplete by the reviewing board or applicable municipal authority, until or unless accompanied by: a) for applications under Highlands Council jurisdiction, a Highlands Council Consistency Determination indicating that the application is consistent, or can and will be made consistent with the Regional Master Plan; or b) an NJDEP Highlands Preservation Area Approval, waiver, or Highlands Applicability Determination indicating non-applicability. Upon receipt of Highlands Council approval, the Ordinance shall be prepared for purposes of public review and adoption by the municipal Governing Body. The Governing Body shall provide for and complete the adoption process, at the conclusion of which, a certified copy of the adopted Checklist Ordinance shall be

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provided to the Highlands Council with notice of its effective date. The process of ordinance adoption shall be conducted in accordance with all legal requirements and protocols pursuant to the New Jersey Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), and shall be guided by the timeframes set forth in the Highlands Council-approved Highlands Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Checklist Ordinance, the proposed changes shall be submitted for review by the Highlands Council prior to adoption by the Governing Body. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption at the municipal level.

Note: The Checklist Ordinance is intended as an interim protection measure only, and should be repealed at the time of adoption of an approved Highlands Area Land Use Ordinance (completion and adoption of which set forth at 1.d., below).

- c. Adoption of Approved Highlands ERI.** The Highlands Environmental Resource Inventory (ERI) shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. The municipal Environmental Commission (or Planning Board in the absence of an Environmental Commission) shall provide for and complete the required process of formal adoption of the ERI by the local Commission or Board. At the conclusion of the process, a certified copy of the adopted ERI shall be provided to the Highlands Council. The process of ERI adoption shall be conducted in accordance with all applicable legal requirements and protocols, and shall be guided by the timeframes set forth in the Highlands Council-approved Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the ERI, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the local Commission or Board.
- d. Adoption of Approved Master Plan Highlands Element.** The Master Plan Highlands Element shall be completed in accordance with the requirements of Section B4 of this Report, and submitted to the Highlands Council for final approval. Upon receipt of final Highlands Council approval, the Highlands Element shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. The municipal Planning Board shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of the Highlands Element by the municipal Planning Board. At the conclusion of the process, a certified copy of the adopted Highlands Element shall be provided to the Highlands Council. The process of Highlands Element adoption shall be conducted in accordance with all applicable legal requirements and protocols, and shall be guided by the timeframes set forth in the Highlands Council-approved Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Highlands Element, the

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proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the local Planning Board.

- e. **Adoption of Approved Highlands Area Land Use Ordinance.** The Highlands Area Land Use Ordinance shall be completed in accordance with the requirements of Section B5 of this Report, and submitted to the Highlands Council for final approval. Upon receipt of final Highlands Council approval, the Highlands Area Land Use Ordinance shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. After the municipal Planning Board has adopted the Master Plan Highlands Element, the municipal Governing Body shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of the Highlands Area Land Use Ordinance by the municipal Governing Body. At the conclusion of the process, a certified copy of the adopted Highlands Area Land Use Ordinance shall be provided to the Highlands Council with notice of its effective date. The process of Highlands Area Land Use Ordinance adoption shall be conducted in accordance with all legal requirements and protocols pursuant to the New Jersey Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), and shall be guided by the timeframes set forth in the Highlands Council-approved Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Highlands Area Land Use Ordinance, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the Governing Body.
 - i. **Municipal Exemption Determinations.** As a component of the Highlands Area Land Use Ordinance, the Township has the option to provide for “Municipal Exemption Determinations” in accordance with Highlands Council/NJDEP July, 2012 MOU. Delegation of such authority to the municipality in the Planning Area, or NJDEP delegation in the Preservation Area. (NOTE: NJDEP currently does not have a delegation program; the provisions in the Highlands Land Use Ordinance are provisional.) Such determinations (detailed within the current draft Ordinance) refer to the process of reviewing and making determinations concerning exemptions from the Highlands Act, which in turn, represent exemptions from the provisions of the Highlands Area Land Use Ordinance. The effective date of such provisions shall occur only after the municipality indicates readiness to proceed and receives written authorization from the Highlands Council or the NJDEP, respectively, granting it the authority to do so.
 - ii. **Highlands Council Information and Training Sessions.** Prior to the effective date of the Highlands Area Land Use Ordinance, municipal

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representatives (e.g., Land Use Administrators, Zoning Officials, Planners) shall attend information and training session(s) to be provided by the Highlands Council on the implementation and administrative procedures set forth within the Ordinance. Such sessions will provide detailed instruction on application processes and procedures, notice requirements, Highlands Council referrals and call-up provisions, decision-making and formal action, variances, waivers, exceptions, and enforcement activities. Prior to the effective date of the Municipal Exemption Determination provisions, moreover, municipal representatives (in particular, Exemption Designee(s)) shall attend an information and training session on the exercise of Municipal Exemption Determination authority.

- f. Adoption of Updated Zoning Map.** The Township shall prepare an updated Municipal Zoning Map which shall be adopted immediately following or at the time of adoption of the Highlands Area Land Use Ordinance, to reflect the new overlay Highlands Zones and Sub-Zones. The adoption process shall mirror that outlined above for the Highlands Area Land Use Ordinance.
- g. Housing Element & Fair Share Plan.** That Township shall submit a motion for a declaratory judgement in accordance with the guidance provided by the NJ Supreme Court and shall follow the courts guidance on all future submission dates and requirements. The Highlands Council shall be copied on all related correspondence and kept apprised of the process as it unfolds. Any subsequent revision to the Draft Housing Element and Fair Share Plan shall be provided to the Highlands Council for review and approval prior to implementation by the municipality. Until and unless the municipality secures final approval of a Highlands Council-approved (as RMP consistent) Housing Element and Fair Share Plan, this Plan Conformance component shall remain a conditionally approved item.
- h. Adoption of Ordinances Implementing Fair Share Plan.** Governing Body adoption of Ordinances required to implement the Fair Share Plan shall follow approval of the Housing Element and Fair Share Plan, in accordance with all legal requirements and protocols pertaining thereto. Plan implementation and continued compliance with the final approved Fair Share Plan moreover, shall be a condition of continued Plan Conformance approval, subject to Highlands Council review and monitoring.
- i. Wastewater Management Plan (WMP).** The municipality shall prepare a Wastewater Management Plan working with the Highlands Council under Plan Conformance, for approval by the NJDEP. This plan will be recognized as a chapter of the Hunterdon County WMP in accordance with NJDEP Administrative Order 2010-03 and all applicable NJDEP rules and requirements. As a municipality conforming for the full municipal area, Clinton Township will collaborate with the Highlands Council to develop a WMP that conforms to the RMP, on a schedule based on Plan Conformance approval. The Highlands Council will draft the WMP using

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information from the Township, and collaborate with the Township to finalize the WMP for NJDEP consideration and approval.

- j. Adherence to Approved Highlands Implementation Plan & Schedule.** The municipality shall undertake to complete all remaining mandatory Plan Conformance activities listed in the Highlands Council-approved Highlands Implementation Plan & Schedule, in accordance with: a) the timeframes set forth therein, to the maximum extent feasible and practicable, or with such adjusted timeframes as may be authorized by the Highlands Council or otherwise mutually agreed by the municipality and the Highlands Council; and b) the availability of funding from the Highlands Council or, on a voluntary basis, by the municipality or other party, to ensure the satisfactory completion of each project or activity, or each phase of such project or activity, as appropriate. Non-mandatory Plan Conformance activities shall neither take precedence over nor shall impede the completion of mandatory items and shall be undertaken only as time and resources are available to support them.
- i. Development/Approval of Implementation Plan Components.** Within the constraints above, all planning, regulatory, and resource management documents shall be prepared and provided to the Highlands Council for review and approval prior to formal adoption by the applicable municipal board, commission, or governing body.
- ii. Adoption of Regulations Implementing Plan Components.** All ordinances, rules, and regulations shall be prepared and provided to the Highlands Council for review and approval prior to formal adoption by the applicable municipal board, commission, or governing body.
- iii. Mandatory Components.** Specific mandatory components include development and implementation of the plans/programs/ordinances herein listed (once models have been provided by the Highlands Council, if applicable, and funding provided), all intended as municipal-wide, long-term initiatives unless specifically noted otherwise. Where applicable and appropriate, these will build upon any such plans, programs, or ordinances that have already been developed or adopted by the municipality. It is the explicit intention of the Highlands Council that such plans/programs be developed in a manner to ensure that implementation is both feasible and practicable, potentially involving assistance of outside agencies/organizations, working cooperatively for and with the municipality. In each case where the municipality will serve as lead, release of funds is contingent upon approval of a scope of work by the Highlands Council Executive Director.
- Agricultural Retention Plan. The Highlands Implementation Plan & Schedule prioritizes this component by allocation of funding to

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further Township efforts to preserve farmland and address retention of agricultural enterprises as a component of the local economy.

- Sustainable Economic Development Planning. The Highlands Implementation Plan & Schedule prioritizes this task by allocation of funding to improve the economic viability of the Township, which has areas with limited growth and redevelopment capacity due to the lack of sewerage. This examination may further prior Township efforts, potentially leading to Highlands Redevelopment Area designation, or potential Highlands Center designation.
- Stormwater Management Plan. Funding for this Plan has been allocated in the Township IPS in the amount of \$15,000.
- Implementing ordinances associated with each of the above (long-term, as applicable). (The Highlands Council will review the Township's already-adopted Right to Farm ordinance for RMP consistency.)

iv. **Non-Mandatory Components:** The Highlands Implementation Plan and Schedule also provides for certain non-mandatory components including development and implementation of the plans herein listed, all intended as municipal-wide, long-term initiatives unless specifically noted otherwise. Where applicable and appropriate, these will build upon any such plans, programs, or ordinances that have already been developed or adopted by the municipality. It is the explicit intention of the Highlands Council that such plans be developed in a manner to ensure that implementation is both feasible and practicable, potentially involving assistance of outside agencies/organizations, working cooperatively for and with the municipality. In each case where the municipality will serve as lead, release of funds is contingent upon approval of a scope of work by the Highlands Council Executive Director.

- Stream Corridor Restoration/Protection Plan. The Highlands Implementation Plan & Schedule prioritizes this component by allocation of funding to protect/restore streams in the municipality and to mitigate the impacts of future land uses on such water resources.
- Map Adjustment. Funding is proposed to complete work required for Map Adjustments analysis that may be required for the development of affordable housing on two of the three sites currently under consideration as discussed above.
- Highlands Center Designation Planning. The Highlands Implementation Plan and Schedule includes an allocation for the Township to study the Annandale area for the possible future

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designation of a Highlands Center. With development densities, access to utilities and transit the Annandale area is well-suited to Center designation, which would incorporate opportunities to meet the Township's affordable housing obligation.

- k. Revisions/Amendments Subject to Highlands Council Approval.** Any proposed revision or amendment to any of the aforementioned documents, or to any other document, plan, or other item approved by the Highlands Council as a component of Plan Conformance, shall be provided to the Highlands Council for review. In the event the Highlands Council staff determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the applicable municipal board, commission, or governing body. Any revision or amendment adopted without the approval of the Highlands Council may subject the municipality to revocation of Plan Conformance approval.
- 2. Optional Petition Requests.** The findings below apply to the Optional Petition Requests discussed at Section C of this Report.

 - a. RMP Updates.** The RMP Updates requested in connection with this Petition for Plan Conformance, that were either reclassified or processed but did not result in the outcome sought by the municipality, may be addressed by proposing the changes be considered as Map Adjustments or a Highlands Center Designation if desired by the municipality, with supporting documentation and justification. Work performed for the Sustainable Economic Development Plan Element, discussed above, should provide a good foundation for such efforts.
 - b. Map Adjustment.** The Petition for Plan Conformance was not accompanied by any request for a Map Adjustment. It should be noted that 2 of the affordable housing sites currently under consideration- will require future Map Adjustment requests.

E. MUNICIPAL RESPONSE PERIOD

All municipal Petitioners are provided a Municipal Response Period after receipt of the Draft Consistency Review and Recommendations Report. This Section is completed after the expiration of the Municipal Response Period or as of the date a municipality chooses, if applicable, to waive its right to the Municipal Response Period.

The Highlands Council provided a Draft Consistency Review and Recommendations Report dated March 2nd, 2012, to the municipality on March 8th, 2012. The Municipal Response Period expired on April 7th, 2012. The municipality provided deliberative new, revised, supplemental, or amended materials, items, or information in support of the Petition for Plan Conformance for Highlands Council consideration.

The Municipal Response submittals included the items listed below, each described and discussed in relation to the matter of consistency with the Regional Master Plan and sufficiency to meet the requirements for Basic Plan Conformance.

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1. A modification to the Implementation Plan and Schedule Map Adjustment allocation for Windy Acres to include an evaluation of all of the Township's potential affordable housing sites and the preparation and submission of map adjustments.
2. A request for funding to be allocated towards a Center Designation Study for the Annandale area of the Township.

F. COMMENTS FROM THE PUBLIC

~~Following the Municipal Response Period and the incorporation by Highlands Council Staff of any revisions resulting from the Municipal Response, as noted above, the Draft Consistency Review and Recommendations Report will be posted to the Highlands Council website and made available (in paper format) at the Highlands Council offices in Chester, NJ, for review and comment by the general public. Comments may be submitted to the Highlands Council by e-mail (cory.piasecki@highlands.nj.gov), facsimile transmission (908-879-4205), surface mail, or hand delivery (Highlands Council, 100 North Road, Chester, NJ 07930). All comments will be made available for public inspection in the offices of the Highlands Council in Chester, NJ. At the conclusion of the public comment period, a summary comment/response document will be prepared by Highlands Council Staff which will be posted to the Highlands Council website along with any final revisions resulting from Council review and consideration of public comments.~~

~~The Final Draft Consistency Review and Recommendations Report was posted to the Highlands Council website and made available (in paper format) at the Highlands Council offices in Chester, NJ, for review and comment by the general public. Several comments were received during the period established by the Highlands Council for receipt of written public comment (May 19, 2015 – June 3, 2015). Upon its completion, ~~the~~ comment/response document ~~will be~~ attached to this document, at Appendix B.~~

G. FINAL RECOMMENDATIONS

~~This Section is completed after review and consideration of all comments regarding a Petition for Plan Conformance.~~

~~Based upon the comments received, the recommendations of Highlands Council Staff concerning the Petition for Plan Conformance of the Township of Clinton, ~~remains~~ unchanged/~~require~~ substantial revision/~~require only minor modifications from the Preliminary and/or Revised Recommendations, as discussed herein below.~~~~

~~1. ~~Item #1.~~~~

~~2. ~~Item #2.~~~~

~~3. ~~Item #3.~~~~

In conclusion, the Highlands Council Staff recommends that the Petition for Plan Conformance of the Township of Clinton, be ~~approved/denied/~~approved with conditions; with all applicable conditions being those listed and discussed in Section D, above, ~~and if applicable, as supplemented and/or modified by the revisions discussed herein, above.~~

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APPENDIX A

HIGHLANDS COUNCIL REVIEW

REQUESTS FOR RMP UPDATES

Clinton Township, Hunterdon County

Summary of Municipal Requests and Highland Council Staff Findings

To the extent that a Municipal Request was not deemed to meet the requirements for an RMP Update, and where LUCM Zone enhancements shown in Exhibit 1 of the Highlands Land Use Ordinance (as discussed in Section C, above) have not addressed the Municipal Request, the municipality may propose to make use of other policies of the RMP to propose a change in LUCM Zone, including a Highlands Center Designation or the Map Adjustment program (see responses to Municipal Requests # 1 and 10).

1. **Municipal Request:** The tract known as the Windy Acres affordable housing site (Block 7, lots 31.01, 31.02, and 18.03) is shown as Conservation Zone-Environmentally Constrained. This site is a municipally owned property that has been recently subdivided specifically to accommodate 100% affordable housing on two small lots adjacent to Main Street (lots 31.02 and 18.03) with the larger rear portion of the property (lot 31.01) to be preserved as open space. As such, lots 31.02 and 18.03 should be re-designated as Existing Community Zone. This designation is consistent with neighboring development in Lebanon Borough and will allow for the municipally-sponsored 100% affordable housing proposed for this site.

Findings: Municipal information provided on current and existing land conditions is consistent with that of the Highlands Council. Portions of the parcels are largely undisturbed. In addition, the Highlands Council does not process parcel subdivisions or parcel lot line adjustments as an RMP Update. Parcel subdivisions and lot line adjustments must be addressed through local development approvals and coordinated with County Planning Departments. The request does not constitute an RMP Update. The municipality subsequently proposed a Map Adjustment, which specifically identifies affordable housing as a potential basis for an adjustment, which is addressed in Appendix B.

2. **Municipal Request:** The small residential area of Clinton Township adjacent to High Bridge Borough along Timber Ridge Drive and Hook Mountain Road currently designated Existing Community is significantly different in character, zoning, and intensity from the adjacent Existing Community in High Bridge. Average lot sizes in this area of Clinton Township are approximately 1.5 acres, while the area in High Bridge Borough is developed on lots of only about 6,500 sf. (0.15 acres). This area of the Township is not served by public sewer or water and is not an extension of a regional network of existing development. It is recommended that it be re-designated as Protection Zone to provide for greater consistency with the land development patterns in this section of the Township.
3. **Municipal Request:** There are three discrete residential areas north and east of Lebanon Borough, in the vicinity of Interstate 78 that represent isolated suburban extensions into an agricultural area and are not part of any regional network of existing development. These areas are served by public water but not by public sewer. As such, they should be re-designated as part of the Protection Zone that largely surrounds them. In addition, the residential lots at the end of

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Wonderview Way and Ramsey Road should also be re-designated Protection Zone to provide consistency with the surrounding development.

4. **Municipal Request:** Block 3, Lot 13 is a 75 acre, unsewered property that is utilized as a Baptist Camp and Conference Center. It consists of temporary residential cottages and associated structures surrounded by mature woods and manmade pond. The property is not part of any existing regional development network and should be re-designated as part of the Protection Zone.

Findings for Request 2 through 4: Municipal information provided on current and existing land conditions for all three areas is consistent with that of the Highlands Council. The requests do not constitute RMP Updates. The areas met the thresholds of development character necessary to be considered Existing Community Zone. The existing land conditions were identified by NJDEP 2002 Land Use Land Cover as Residential Single Unit (Code: 1140) and are adjacent to areas with regionally significant concentrated development. In addition, the areas do not include significant agricultural land uses or high resource value lands that would have justified inclusion in the Conservation or Protection Zone. The municipality may wish to consider additions or modifications to the Highlands Area Land Use Ordinance or to the underlying municipal Zoning Ordinance to address such aims as enhancing environmental protection in one or more LUCM Zones or municipal zoning district.

5. **Municipal Request:** Block 13.01, Lot 1, is a vacant partly wooded/partly agricultural property on Route 22. It is adjacent to Conservation Zone lands on all sides. Thus, the ECZ designation appears to be inconsistent with the surrounding areas and should be changed to Protection Zone.

Findings: Municipal information provided on current and existing land conditions is consistent with that of the Highlands Council. The parcel is less than 75 acres and was subsequently classified as Existing Community Zone based on its location relating to the neighboring highway. Based on this fact that it was only this proximity to the highway that caused the classification as ECZ the RMP Update has been processed changing the designation from Existing Community Zone to Conservation Zone to reflect the dominant surrounding LUCM Zone.

6. **Municipal Request:** The boundary of the Lake Community Zone adjacent to the north end of Round Valley Reservoir appears to be incorrect as it is not following a consistent 1,000 foot buffer from the Reservoir. In addition, some of the residential properties on the south side of Old Mountain Road are partially included in the Lake Community Zone while adjacent homes are not. The Land Use Capability zone in these areas along Old Mountain Road should be revised to Protection Zone to be consistent with the RMP guidelines and actual ground conditions.

7. **Municipal Request:** The boundary of the Lake Community Zone adjacent to the Spruce Run Reservoir appears to be inconsistent as only some residential properties within 1,000 feet of the reservoir are included. Accordingly, all properties within the Waters Edge subdivision should be included in the Lake Community Zone as opposed to the Protection Zone.

8. **Findings for Requests 6 and 7:** The Highlands Council has modified the mapping for Lake Community Sub-Zone regionally to reflect the actual drainage area for each lake or reservoir. In the case of Round Valley Reservoir, no Existing Community Zone areas intersected with the small drainage area to the reservoir, most of which is public property. Therefore, Exhibit 1 for the Highlands Area Land Use Ordinance no longer indicates any Lake Community Sub-Zone associated with Round Valley Reservoir. For Spruce Run Reservoir, only a portion of the Waters Edge subdivision is within the drainage area of the Reservoir and therefore is Lake Community Sub-Zone.

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9. **Municipal Request:** Areas from the NJ Water Supply Authority Building northward should be removed from the Lake Community Zone and changed to the Protection Zone as they are not sewered and contain only scattered residential and non-residential development.

Findings: This area is in the Preservation Area and will be regulated as such, regardless of LUCM Zone. However, the Highlands Council has reviewed this request as an RMP Update. This area was originally mapped as Existing Community Zone (Lake Community Sub-Zone) and Existing Community Zone Constrained because Block 68 Lots 3 and 6 were identified as Moderate and Suburban Fringe Developed lands and a building at Block 68 Lot 8 was identified as Existing Area Served with Wastewater. The Moderate and Suburban Fringe Developed lands assessment was based upon a regional approach and was intended to capture a critical mass of developed areas as an indicator of Existing Community Zones. Block 68 Lots 3 & 6 were at the outer (northern) edge of the Moderate and Suburban Fringe Developed lands. However, in this specific area the land cover generally is not developed; rather it is primarily forested (Land Use Land Cover Code 4120 – Deciduous Forest). Further, the Highlands Council confirms the lack of wastewater services for this area, including Block 68 Lots 8 and 15, and the area will not be included in the Future Sewer Service Area for Clinton Township.

While there is a small area at the end of Echo Lane (1.75 acres) with an existing developed area (Land Use Land Cover 1700 – Other Urban or Built Up Land), the area is surrounded by preserved lands and forested lands. Based on these conditions, it is appropriate and more accurate to current ground conditions that the LUCM Lake Management Sub-Zone on Block 68 Lots 3 & 6 be updated to Protection Zone, consistent with the other lands along the west side of Route 31, north of the NJ Water Supply Authority Building. Therefore, the Highlands Council has modified the Lake Community Sub-Zone area of Block 68 Lots 1, 3, 4, 4.01, 5 and 6 to Protection Zone. Please note that this RMP Update does not modify the LUCM Zone applicable to Block 2 Lots 2 and 2.02, which are fully developed parcels on Route 31 opposite Cregar Road.

10. **Municipal Request:** The area on the east side of Route 31, currently used as a part of a golf course should be removed from the Existing Community Zone and changed to Protection Zone as it is not sewered and is not part of existing developed area.

Findings: Highlands Council current and existing Anderson Land Use Classification identifies a majority of the property as Recreational Land (1800), which is considered a developed land use. The parcel in question is owned by the Borough of High Bridge. The request does not constitute an RMP Update.

11. **Municipal Request:** Block 30, Lot 30, 41, and 17 is the home of Exxon Mobil Corporation's Clinton corporate campus. The LUCM has as designated these properties as Conservation Zone and Conservation-Environmentally constrained subzone areas. As Exxon Mobil's future plans for the property are uncertain, the Township is not proposing a specific map change at this time. However, the Township would like to explore the potential for future economic development opportunities that may include a map adjustment.

Findings: As suggested, the municipality may make use of other policies of the RMP to propose a change in LUCM Zone, including the Map Adjustment program.

12. **Municipal Request:** There appears to be a riparian area mapping error which indicates a connection between tributaries of the South Branch Rockaway Creek in the vicinity of Old Mountain Road (Block 8, Lots 5 through 11, inclusive).

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Findings: The “NJDEP 2002 Streams Update for New Jersey, 4/22/2008 Edition” indicates that tributaries exist in this location (See K above). The riparian areas associated with these tributaries may intersect, based on mapping of hydric soils. The connection is not between the tributaries, but is between the hydric soils associated with the individual streams. Such connections are common in areas of low topographic relief in headwaters stream reaches. In order for the Highlands Council to appropriately review this request as an RMP Update, more supporting information is required. Please complete and submit an RMP Update Form available through the NJ Highlands Council Website listed above.

13. **Municipal Request:** It appears there are inconsistencies between the Township’s carbonate rock map and the Highlands map. Specifically, the Highlands map shows an area north and east of Lebanon Borough that is not depicted on Township maps. The scientific basis and source data for this area should be investigated so the two maps can be rectified. Pending the outcome, a change in the Highlands map may be warranted.

Findings: Current NJ Geological Survey surficial bedrock delineations indicate the presence of carbonate rock, which are not subject to an RMP Update. However, the presence of carbonate rock does not always mean that karst conditions will be found. The presence of carbonate rock requires under the Highlands Land Use Ordinance that development applications provide a Phase I Geotechnical Investigation to determine the presence of karst features and necessary development design and construction controls. The presence of carbonate rocks was not used as an indicator for LUCM Zones.

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APPENDIX B

PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

Petition for Plan Conformance

Clinton Township, Hunterdon County

Public Comment Period: May 19, 2015 – June 3, 2015

PUBLIC COMMENTS RECEIVED

Written comments regarding Clinton Township’s Petition for Plan Conformance were accepted by the Highlands Council from May 19, 2015 through the close of the Public Comment Period on June 3, 2015. Comments were provided by the following individuals/entities:

1. William Honachefsky Jr.
2. Helen Heinrich, on behalf of New Jersey Farm Bureau (NJFB)
3. Erica Van Auken, on behalf of NJ Highlands Coalition
4. Wilma Frey, on behalf of NJ Conservation Foundation

The comments are summarized in the section that follows, with the Highlands Council responses provided below for each.

PUBLIC COMMENT/ RESPONSE SUMMARY

Comment (Mr. Honachefsky): Mr. Honachefsky, writing on behalf of the owners of Block 68 Lots 3,4, and 4.01 in Clinton Township, strongly supports Clinton Township’s RMP Update Request number 9 (Appendix A) to modify the properties from the “Lake Community Subzone” to the “Protection Zone” consistent with other lands west of Route 31. These lots abut the Spruce Run Reservoir and Spruce Run State Park and are located in the Preservation Area in the Resource Conservation (RC) zoning district of the Township. Mr. Honechefsky concurs with the Council’s finding that all of the lots within the area (1, 3, 4, 4.01, 5, and 6) belong in the “Protection Zone”. He further strongly supports Clinton Township’s entire petition for Plan Conformance.

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Response: The Council acknowledges Mr. Honachefsky’s comment in support of Clinton Township’s Petition for Plan Conformance and, as discussed in Appendix A of this report, concurs with his suggestion for the RMP update.

Comment (NJFB): Ms. Heinrich, on behalf of the New Jersey Farm Bureau, supports the efforts of Clinton Township to update its Right to Farm ordinance and the proposed grant funding for an Agricultural Retention and Farmland Preservation Plan. Furthermore Ms. Heinrich indicates the NJ Farm Bureau’s support for grant funding of a Sustainable Economic Development Plan which has an opportunity to include farm businesses in its economic revitalization efforts.

Ms. Heinrich expressed disappointment that Clinton Township’s petition does not include a TDR feasibility study since it would provide opportunities for noncontiguous clustering of development while enhancing the Township’s land preservation efforts which Ms. Heinrich characterizes as “weak,” with only 825 acres preserved. Ms. Heinrich also questioned whether or not the Township had an open space/farmland preservation tax dedication in place as a source of compensation to farmland owners.

Additionally, Ms. Heinrich acknowledges the severe limits on septic densities required by the DEP rules. She states that the DEP methodology required to determine lot sizes is flawed and was opposed by agricultural interests from the beginning. Ms. Heinrich stresses that the DEP septic densities should be made more science-based and site-specific to increase the credibility of the RMP and that Clinton Township should remain flexible about such densities in case the DEP nitrate dilution standards are changed.

Ms. Heinrich stressed that the Farm Bureau’s finds the impact on property owners frustrating and inequitable at a time when the share of the Corporate Business Tax revenue the voters dedicated to farmland preservation state-wide is being scaled back to just \$17 million per year, which is half of the share of former years.

Ms. Heinrich acknowledged the Council’s review of Clinton Township’s request for RMP updates and continues to urge the Council to discourage map amendments or other measures that would move more farmland now in the Conservation Zone into the Protection Zone since this would severely reduce the options for farm businesses to grow and change for their economic survival.

Finally, Ms. Heinrich stated that it is imperative that Clinton Township present the petition and the required plans to the public as well as the ordinance that would conform the Planning Area. She continues that the Township’s planning documents are very dated (1992-2006), all preceding the adoption of the RMP. The last public participation in the question of Plan Conformance took place in December of 2009.

Response: The Highlands Council acknowledges Ms. Heinrich’s support for continued and enhanced agriculture in Clinton Township. The Highlands Council also notes Ms. Heinrich’s suggestion for a TDR feasibility study. While a feasibility study for TDR has not been included in the Township’s Implementation Plan and Schedule and proposed amended grant agreement a study for possible Center Designation has been. Should the Township find a Highlands Designated Center is feasible and desirable, the Township may consider the feasibility of a TDR program at a later date.

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The Highlands Council acknowledges Ms. Heinrich’s concern regarding farmland preservation in Clinton Township. It should be noted that a significant portion of the Township consists of preserved lands, however, totaling some 8,109 acres, or 37.4% of the Township. Of the total preserved acreage, just 825 acres are preserved farmlands. The Highlands Council believes that inclusion of Agriculture Retention and Farmland Preservation plan grant funding in the proposed Amended Grant Agreement will help focus the Township’s land preservation efforts toward agriculture resources areas where appropriate.

The Highlands Council further acknowledges the NJ Farm Bureau’s disapproval of the NJ DEP septic density rules and the impact such rules have on land owners. The NJ DEP rules governing septic densities in the Highlands Preservation Area are separate and apart from this Petition for Plan Conformance and remain in place regardless of the Township’s Plan Conformance Petition status. However, it is recognized that the NJ DEP could, at some point, update or modify the septic density rules. The Highlands Council remains committed to working with both the Township and the NJ DEP regarding any changes to the rules or other standards that may affect development within the Township.

Regarding State funding for open space and farmland preservation, the Council acknowledges the shortfall of funding and looks forward to working with Clinton Township as well as all other Highlands municipalities to provide supplemental funding through our pending Landowner Equity and Land Preservation grant program.

As noted in Appendix A of the Final Consistency Review and Recommendations Report, the Highlands Council considers individually each municipality’s request for RMP (map) Updates based on the current disposition of the lands in question as well as adjacent properties. Where the Council reviewed Township suggested updates, the lands in question were reviewed and those requests were either accepted or denied based upon Highlands Council mapping criteria. Requests by the Township which do not meet the Council’s designation criteria are considered Map Adjustments. The Township has not requested any specific Map Adjustments.

Finally, the Highlands Council acknowledges Ms. Heinrich’s concern with the age of Clinton Township’s planning documents and public participation thus far in the process. In addition to the public process involved in Highlands Council consideration of the Petition itself, actions taken by the Township in the future to implement Plan Conformance tasks will be made publicly, in accordance with the provisions in the Municipal Land Use Law.

Comment (NJ Highlands Coalition): Ms. Van Auken, on behalf of the NJ Highlands Coalition, wholly supports Clinton Township’s petition for Plan Conformance and is encouraged to see that the Township is opting to conform the entire municipality considering roughly 97% of the land is in the Planning Area.

Ms. Van Auken agrees with the assessment in the Consistency Determination that, because of the Township’s existing transportation infrastructure, the Annandale section of the Township is reasonable for Center Designation. However, Ms. Van Auken cautions that Centers should only be encouraged in areas where existing water and sewer resources are available. Ms. Van Auken further cautions development in recharge areas and wellhead protection areas – both of which heavily constrain parts of the township

Ms. Van Auken makes the same cautions for the two affordable housing sites that would require map adjustments. She states that these developments should only be considered if there is an available water

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allocation and existing infrastructure to support such projects. Ms. Van Auken cautions that Clinton has many environmental constraints, including those previously mentioned and others that would impact development.

Finally, Ms. Van Auken acknowledges the Township's efforts to implement the non-mandatory Stream Corridor Restoration and Protection Plan and urges the Township to consider implementing additional non-mandatory components of the RMP such as protections for historic resources.

Response: The Highlands Council acknowledges Ms. Van Auken's comments on behalf of the NJ Highlands Coalition. With respect to Ms. Van Auken's concerns regarding resources and infrastructure (sewer and water) in the proposed Annandale center study and potential affordable housing sites, the Highlands Council will continue to work with the Township to examine the potential for a Highlands Center or any affordable housing sites employing a comprehensive approach addressing utility capacity, water availability, resource protection, historic and cultural resource protection, economic development, transportation planning and community enhancement consistent with the Goals, Policies and Objectives of the RMP.

Finally, with respect to implementation of non-mandatory components of the RMP, Clinton Township along with the Highlands Council has identified Stream Corridor Restoration and Protection as a priority for the Township. Additional grant funding may be made available to the Township for added implementation tasks at a later date through a supplemental amended grant agreement once the Township has completed its current Implementation Plan and Schedule.

Comment (NJ Conservation Foundation): Ms. Frey, on behalf of the New Jersey Conservation Foundation, strongly supports Clinton Township's Petition for Plan Conformance particularly on the basis that the Township is conforming for both the Preservation Area and Planning Area. Ms. Frey expressed concerns with disclaimer language added by the Township to the front page of the Highlands Environmental Resource Inventory, Master Plan Highlands Element, and Highlands Area Land Use Ordinance stating that the documents are draft, deliberative, have no effect on any existing Clinton Township Master Plan element or land development ordinance, and shall not be relied upon by any third parties. Ms. Frey states that this disclaimer should not apply to fact-based data such as the ERI mapping and science-based assessments of water supply, water quality, forest quality, and presence of rare, threatened and endangered species.

Ms. Frey states that the view-shed of the Spruce Run Reservoir encircled by the forested Cushetunk Mountain and the Round Valley Recreation Area is identified in the baseline Highlands Scenic Resources Inventory and Clinton Township's documents, however, the spectacular view of these lands is not protected. Ms. Frey indicates that the views are made possible by the existence of continuous privately-owned farm fields along the left side of Cokesbury Road. She opines that the view is surely treasured by many and should be recognized and protected as a significant scenic resource. Furthermore, Ms. Frey states that the Highlands Act Goals for the RMP in the Planning Area include a requirement to protect and maintain the essential character of the Highlands environment and that the Clinton Township Draft Highlands ERI discusses the goals associated with protecting scenic resources, including maintaining the visual integrity and scenic beauty of noteworthy view-sheds. Ms. Frey states that there is currently no process proposed in the Clinton Plan Conformance documents that would identify and protect currently unidentified scenic resources and that the Draft Land Use Ordinance appears to deal only with the Highlands Scenic Resources already identified in the

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RMP. It is not clear how scenic view-sheds that are not related to the RMP list of Highlands Scenic Resources would be recognized and protected.

Ms. Frey urges the Council to move to implement the Highlands Scenic Resources Procedures by convening the approved volunteer seven-member Scenic Design Advisory Board to secure the recognition and protection of other unidentified scenic resources in Clinton Township and notes that RMP Policy 4C3 requires that conforming municipalities include in their development regulations minimum standards for the protection and enhancement of scenic resources included in the Highlands Scenic Resources Inventory. Ms. Frey further notes that RMP Policy 4C1 requires that conforming municipalities and counties include a Historic, Cultural and Scenic Resource Protection Element in municipal and county master plans and development regulations. She feels that the option to include the Highlands Historic, Cultural and Archaeological Resources and an overlay to municipal zoning should be retained in Clinton Township's Draft Highlands Area Land Use Ordinance.

Finally, Ms. Frey recognizes that the Draft Consistency Review and Recommendations Report for Clinton Township refers, in a number of cases, to modifications made to documents that are indicated on those documents. These modifications did not appear to be shown.

Response: The Highlands Council thanks Ms. Frey's for her comments on behalf of the New Jersey Conservation Foundation. With regard to the protection of Historic, Cultural, Archeological, and Scenic Resources, in particular as may pertain to the referenced farmlands along Cokesbury Road, the Highlands Council has included in Clinton Township's proposed Implementation Plan and Schedule an Agricultural Retention and Farmland Preservation Plan. The Highlands Council will work closely with Clinton Township to review and consider inclusion of all eligible scenic resources in the Scenic Resource Management Plan, and likewise, of farmland properties in the Agriculture Retention and Farmland Preservation Plan – each providing for preservation or protection. The Highlands Council has in place procedures for the nomination and evaluation of scenic resources as part of the 2008 Historic, Cultural, Archeological, and Scenic Resources Technical Report (Page 6). Additional procedures and a nomination form are available from the Highlands Council upon request should Ms. Frey wish to nominate specific properties or corridors to be included in the Highlands Scenic Resource Inventory.

Regarding Ms. Frey's concern with the disclaimer language on the Highlands Environmental Resource Inventory, Master Plan Highlands Element, and Highlands Area Land Use Ordinance, the Township inserted this language to inform the public that these documents remain as draft at this time and are subject to changes which are agreed upon by the Highlands Council and Clinton Township. The Highlands Council has no objection to inclusion of such disclaimers at this point in the conformance process, since new master plan language and/or of land use regulatory provisions take on the full force and effect of law only upon final adoption following public hearing and completion of all required MLUL procedures. In any case, no changes to fact-based data will be made unless deemed appropriate- as updates/corrections.

Finally, Ms. Frey notes that the Draft Consistency Review and Recommendations Report for Clinton Township refers to modifications made to documents that are not displayed on the posted documents. Modifications to the referenced documents made between the Highlands Council and Clinton Township are considered confidential and deliberative in nature. The posted documents reflect all changes to date, indicating agreement between the Township and the Highlands Council as to the final form of the Petition

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documents to be considered for approval by the Highlands Council. If any public comment results in further changes or modifications to a municipality's Petition documents, those changes would be displayed clearly and reposted prior to the Highlands Council public hearing- on the Petition.